IN THE HIGH COURT OF JUDICATURE AT BOBBY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2157 OF 2004

Mr. Satish Laxman Kunchikurve .. Petitioner

V/s.

State of Maharashtra & Ors. .. Respondents.

Shri Sanjiv A. Sawant for the Petitioner.
Shri S.R. Shinde, APP for Respondent -State.

CORAM : A.M.KHANWILKAR, J.
DATED : 25.11.2004

PC :-

. Heard counsel for the parties.

2. Only two contentions have been raised before me. The first point is that the entire proceedings are vitiated on account of breach of principles of natural justice as the incamera statements which are made foundation for passing the impugned order of externment, were not furnished to the applicant. There is no substance in this submission. The original record has been produced before me by the learned APP. It clearly shows that incamera statements have been acknowledged by the petitioner by putting initials at the bottom of every page. There is no reason to doubt the correctness of the original

record produced before me which clearly shows that the incamera statements were furnished to the petitioner. This position is in fact fortified from the written statement filed on behalf of the petitioner, which clearly adverts to the incamera statements and denies the correctness thereof. Accordingly, there is no merit in this submission.

3. It is next contended that the order of externment requiring the petitioner to remove himself from the districts of Bombay, Raigad and Thane, is excessive. It is submitted that this contention has not been considered by the appellate authority at all, though raised. There is no substance in this submission also. In the first place, this submission overlooks the settled legal position laid down in Pandarinath vs. State of Maharashtra (AIR 1973 SC -630). Besides it is seen that the ground regarding excessiveness of the order, was not agitated before the appellate authority as the appellate authority has adverted to the oral arguments which were canvassed before it as can be seen from para -4 of the impugned order. No grievance is made in the memo of the petition that the said ground was specifically argued but not adverted to by the appellate authority. Be

that as it may, in view of the observations of the Apex Court in the above referred case, in such a case, the order cannot be said to be excessive. Hence, the present writ petition is dismissed. Ordered accordingly.

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